

PROB 12B  
(7/93)

Report Date: January 17, 2006

**United States District Court**

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**for the**

**JAN 30 2006**

**Eastern District of Washington**

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**  
*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: John Garcia

Case Number: 2:99CR00057-001

Name of Sentencing Judicial Officer: The Honorable Wm. Fremming Nielsen, Senior U.S. District Judge

Date of Original Sentence: 10/18/1999

Type of Supervision: Supervised Release

Original Offense: Conspiracy to Distribute Controlled Substances, 21 U.S.C. §§ 846, 841(a)(1)

Date Supervision Commenced: 9/2/2005

Original Sentence: Prison - 41 Months; TSR - 60 Months

Date Supervision Expires: 9/1/2007

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**PETITIONING THE COURT**

To modify the conditions of supervision as follows:

- 17 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.

**CAUSE**

Mr. Garcia is in violation of the conditions of his release in that he submitted a urine sample on December 21, 2005, which tested positive for the presence of amphetamine/methamphetamine. Further, the defendant admitted to the probation officer on December 5, 2005, that he had used methamphetamine. In December 2005, the offender was observed to be associating with his codefendant, Penny Kirk, a convicted felon in Wenatchee, Washington. On December 29, 2005, the offender admitted to the probation officer that he had associated with Ms. Kirk. This officer had previously supervised Ms. Kirk and the Court revoked Ms. Kirk's term of supervised release on several occasions. In addition, the offender failed to report for random urine testing on November 21, December 20, 2005, and January 3, 2006.

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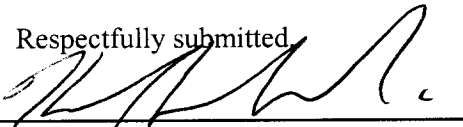
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Mr. Garcia's supervised release has previously been revoked by the Court on two prior occasions for similar behavior, primarily drug use. Upon his last release from custody on September 2005, Mr. Garcia appeared to be doing well, but unfortunately, relapsed into his old behavior patterns and associations. The probation officer has supervised Mr. Garcia when he was out of custody for the last 3 years. The probation officer is willing to give Mr. Garcia an opportunity to again address his substance abuse issues. To this end, Mr. Garcia has re-entered the James Oldham Treatment Center in Buena, Washington, effective January 12, 2006, for residential treatment and will be participating in their program until February 9, 2006. Mr. Garcia previously participated in this program, but was terminated from the program for rules violations, failing to complete the course of treatment. Mr. Garcia is a registered sex offender, and very few residential substance programs accept sex offenders. While the probation officer is not optimistic about Mr. Garcia's long term success, he was honest and straight forward about his violation behavior at an early stage. It is hoped at some point, Mr. Garcia will make the necessary changes in his life to allow him to be successful.

It is respectfully recommended that the Court take judicial notice of Mr. Garcia's violation behavior and take no action other than approve the requested modification as required by a recent 9<sup>th</sup> Circuit Court decision. It is hoped Mr. Garcia will complete residential treatment and demonstrate his willingness to abide by the Court's orders. If Mr. Garcia fails to complete treatment or engages in any other violation behavior, the probation officer will recommend a warrant and revocation of supervised release.

Respectfully submitted


by

  
 Kevin Crawford  
 U.S. Probation Officer  
 Date: January 17, 2006

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**THE COURT ORDERS**

- ☐ No Action  
☐ The Extension of Supervision as Noted Above  
☒ The Modification of Conditions as Noted Above  
☐ Other

  
 Signature of Judicial Officer

 1/30/06  
 Date